

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DVL, INC. and DVL KEARNY HOLDINGS,
LLC,

Plaintiffs,

v.

CONGOLEUM CORPORATION and BATH
IRON WORKS CORPORATION,

Defendants.

Civil Action No. 2:17-cv-04261 (KM) (JBC)

**DECLARATION OF CAMILLE V.
OTERO IN SUPPORT OF
CONGOLEUM'S UPDATED
MEMORANDUM OF LAW IN
OPPOSITION TO BIW'S UPDATED
MOTION TO COMPEL PRODUCTION**

I, **CAMILLE V. OTERO**, am an attorney-at-law in good standing of the bars of the State of New Jersey and the United States District Court for the District of New Jersey and a Director in the firm of Gibbons P.C., attorneys for Defendant Congoleum Corporation ("Congoleum"). I am thoroughly familiar with the facts and circumstances of this action. I make this Declaration in support of Congoleum's memorandum of law in opposition to Defendant Bath Iron Works Corporation's ("BIW") motion to compel production of confidential settlement negotiation documents.

1. Attached hereto as Exhibit A is a true and correct copy of a March 7, 2019 6:21 PM email from Wade A. Thomson to Kevin W. Weber, with the subject line "Motion to Compel."

2. Attached hereto as Exhibit B is a true and correct copy of the Instrument of Assignment and Assumption between 1984 Congoleum and Resilco, Inc., dated April 18, 1986; previously filed via CM/ECF by BIW (ECF No. 36-1) as Exhibit #1, BIW's Reply Brief in further support of its Motion to Dismiss.

3. Attached hereto as Exhibit C is a true and correct copy of the Declaration of Howard Feist, III in support of Congoleum's motion for an order from the United States Bankruptcy Court

for the District of New Jersey authorizing and approving the settlement and policy buyback between Congoleum and Century Indemnity, dated August 21, 2006.

4. Attached hereto as Exhibit D is a true and correct copy of the Notice of Congoleum's motion for an order from the United States Bankruptcy Court for the District of New Jersey authorizing and approving the settlement and policy buyback between Congoleum and Century Indemnity, dated August 21, 2006; marked in the top right-hand corner as "Received by BIW Legal Dept." on August 24, 2006.

5. Attached hereto as Exhibit E is a true and correct copy of correspondence from Tancred Schiavoni of the law firm O'Melveny & Meyers LLP, counsel for Century Indemnity, to Russell L. Hewit of the law firm Dughi Hewit & Domalewski P.C., insurance counsel for Congoleum, dated November 5, 2018.

6. Attached hereto as Exhibit F is a true and correct copy of correspondence from Daren S. McNally of the law firm Clyde & Co US LLP, counsel for Travelers Casualty and Surety Company, to Camille V. Otero of the law firm Gibbons P.C., counsel for Congoleum, dated March 21, 2019.

7. Attached hereto as Exhibit G is a true and correct copy of the June 6, 2002 Confidentiality Agreement and Order entered in *Congoleum Corp. v. ACE Property & Casualty Co. et al.*, No. MID-L-8908-01.

8. Attached hereto as Exhibit H is a true and correct copy of the June 2, 2004 Protective Order entered in *In re Congoleum Corp. et al.*, No. 03-51524.

9. Attached hereto as Exhibit I is a true and correct copy of the May 30, 2006 Order for Mediation entered in *In re Congoleum Corp. et al.*, No. 03-51524.

10. Attached hereto as Exhibit J is a true and correct copy of the May 21, 2019 deposition testimony of Howard N. Feist, III in this litigation.

I declare under penalty of perjury that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Respectfully submitted,

Dated: November 1, 2019

s/ Camille V. Otero
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